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REMARKS

Reconsideration and withdrawal of all grounds of rejection, and allowance of the pending claims are respectfully requested in light of the remarks made herein.

Claims 1, 3, 4, 7-13 and 15 stand rejected under 35 USC 102(e) as being anticipated by Mulla et al. (U.S. Patent Application 09467905 and now issued U.S. Patent No. 6,311,896). Claims 5-6 stand rejected under 35 USC 103(a) as being unpatentable over Mulla in view of Tracy (U.S. Patent No. 5,979,757).

Applicant respectfully disagrees with, and explicitly traverses, the examiner's reason for rejecting the claims.

As admitted by the Office Action, Mulla does not teach “ *wherein responsive to the received competitive bid, the controller is further arranged to allow a user to adjust the received competitive bid and send a counter offer to one or more of the service nodes,* as claimed in amended claim 1. Independent claims 10 and 12 recite similar limitations.

The Office Action indicates it would be obvious to send a counter-offer to one or more of the service nodes. Moreover, that the making of a counter-offer is inherent to the bidding process and cites negotiations over the price of a car or home and haggling over the price of livestock. Applicants respectfully disagree. A claimed invention is prima facie obvious when three basic criteria are met. First, there must be some suggestion or motivation, either in the reference themselves or in the knowledge generally available to

one of ordinary skill in the art, to modify the reference or to combine the teachings therein. Second, there must be a reasonable expectation of success. And, third, the prior art reference or combined references must teach or suggest all the claim limitations.

Mulla teaches that a product is scanned and “responses are received in the host terminal from one or more sellers including a sales offer; an acceptance is transmitted responsive to one of said sale offers...” (see col. 11, lines 39-41). Only a limited number of actions can be taken by a user (see for example, TABLE I). For example, a new scan and query can be preformed, however, *allowing a user to adjust the received competitive bid and send a counter offer to one or more of the service nodes*, as recited in the amended claims, is not among them.

For this teaching, the Examiner relies upon the allegation that “the making of a counter-offer is inherent to bidding process...” Applicant respectfully traverses.

A careful reading of the method of Claim 1 allows a user to adjust the received competitive bid and send a counter offer to one or more of the service nodes via the apparatus. This includes the ability to manipulate the apparatus and the received bids, and transmit a counter off to one or more of the service nodes, which does not relate to the examples the Examiner noted. The Examiner’s examples of a counter-offer relate generally to verbal counter-offers that do not require the limitations of manipulating an apparatus and received bids, and the transmission of a counter offer via the apparatus.

To simply state that the general idea of a counter-offer would be an obvious modification to Mulla by one skilled in the art begs the question: How and why? Especially, since Mulla teaches away from the present invention by requiring a new scan and query for each request. It is easy to allege a counter-offer as being an obvious or inherent modification of Mulla. It is much easier said, however, than substantiated. To allege otherwise is merely to reduce the apparatus of claim 1 to a mere "gist" or "thrust." Such an interpretation disregards the "as a whole" requirement of MPEP 2141.02, and distills the complexities of the actual apparatus to an abstract general buzz word, precisely the problem obviated by MPEP 2141.02.

Thus, Applicant traverses this rejection, and respectfully requests that the Examiner's position be supported by a reference, as per MPEP 2144.03.

For at least the above cited reasons, Applicant submits that Claim 1 is clearly patentable over Mulla. Independent claims 10 and 12 recite similar limitations and are deemed patentable over Mulla for at least the same reasons.

With regard to claims 3-9, 11, 13 and 15, these claims depend from an independent claim discussed above, which have been shown to be allowable in view of the cited reference. Accordingly, each of claims 3-9, 11, 13 and 15 is also allowable by virtue of its dependence from an allowable base claim.

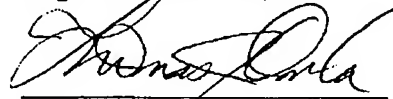
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For all the foregoing reasons, it is respectfully submitted that all the present claims are patentable in view of the cited references. A Notice of Allowance is respectfully requested.

Respectfully submitted,

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